

COMMITTEE ON GOVERNMENT

SENATE AMENDMENTS TO H.B. 2221

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes,
3 is amended by adding section 9-461.14, to read:

4 9-461.14. Green building program; requirements

5 A. ANY MUNICIPALITY THAT ESTABLISHES A MANDATORY GREEN BUILDING
6 PROGRAM FOR ANY NEW RESIDENTIAL OR COMMERCIAL DEVELOPMENT SHALL PREPARE A
7 GREEN BUILDING IMPACT ANALYSIS STUDY THAT INCLUDES:

8 1. DOCUMENTATION SHOWING THAT THE MUNICIPALITY EXAMINED A RANGE OF
9 ALTERNATIVE GREEN BUILDING GUIDELINES.

10 2. AN EXPLANATION OF THE BASIS AND PURPOSE BY WHICH THE MUNICIPALITY
11 SELECTED ITS PREFERRED ALTERNATIVE.

12 3. THE ESTIMATED MATERIAL AND INSTALLATION COSTS FOR EACH PROPOSED
13 GREEN BUILDING COMPONENT.

14 4. THE PROJECTED REDUCTION, IF ANY, IN ENERGY, WATER, SEWER CAPACITY
15 AND PROJECT MATERIAL USE, INCLUDING THE ANNUAL COST SAVINGS ASSOCIATED WITH
16 EACH COMPONENT.

17 5. THE ESTIMATED TIME NEEDED, IF ANY, TO RECOVER THE MATERIAL AND
18 INSTALLATION COSTS FOR EACH COMPONENT.

19 6. THE IMPACT ON NEW HOME PRICES AND LOW INCOME HOME BUYERS.

20 B. IT IS UNLAWFUL FOR A MUNICIPALITY OR ANY OTHER POLITICAL
21 SUBDIVISION TO REQUIRE AS A CONDITION OF ANY LAND USE APPROVAL THAT A
22 LANDOWNER PARTICIPATE IN ANY GREEN BUILDING PROGRAM OR DENY ANY LAND USE
23 APPROVAL FOR NOT PARTICIPATING OR INSTALLING ANY GREEN BUILDING MEASURE THAT
24 HAS NOT BEEN FORMALLY ADOPTED PURSUANT TO THIS SECTION.

25 C. THIS SECTION DOES NOT AFFECT ANY GREEN BUILDING PROGRAM ADOPTED
26 BEFORE JANUARY 1, 2008.

27 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to
28 read:

29 9-462.01. Zoning regulations; public hearing; definitions

1 A. Pursuant to the provisions of this article, the legislative body of
2 any municipality by ordinance may in order to conserve and promote the public
3 health, safety and general welfare:

4 1. Regulate the use of buildings, structures and land as between
5 agriculture, residence, industry, business and other purposes.

6 2. Regulate signs and billboards.

7 3. Regulate THE location, height, bulk, number of stories and size of
8 buildings and structures, the size and use of lots, yards, courts and other
9 open spaces, the percentage of a lot which may be occupied by a building or
10 structure, access to incident solar energy and the intensity of land use.

11 4. Establish requirements for off-street parking and loading.

12 5. Establish and maintain building setback lines.

13 6. Create civic districts around civic centers, public parks, public
14 buildings or public grounds and establish regulations therefor.

15 7. Require as a condition of rezoning public dedication of
16 rights-of-way as streets, alleys, public ways, drainage and public utilities
17 as are reasonably required by or related to the effect of the rezoning.

18 8. Establish floodplain zoning districts and regulations to protect
19 life and property from the hazards of periodic inundation. Regulations may
20 include variable lot sizes, special grading or drainage requirements, or
21 other requirements deemed necessary for the public health, safety or general
22 welfare.

23 9. Establish special zoning districts or regulations for certain lands
24 characterized by adverse topography, adverse soils, subsidence of the earth,
25 high water table, lack of water or other natural or man-made hazards to life
26 or property. Regulations may include variable lot sizes, special grading or
27 drainage requirements, or other requirements deemed necessary for the public
28 health, safety or general welfare.

29 10. Establish districts of historical significance provided that:

30 (a) The ordinances may require that special permission be obtained for
31 any development within the district if the legislative body has adopted a
32 plan for the preservation of districts of historical significance which meets

1 the requirements of subdivision (b) of this paragraph, and the criteria
2 contained in the ordinance are consistent with the objectives set forth in
3 the plan.

4 (b) A plan for the preservation of districts of historical
5 significance shall identify districts of special historical significance,
6 state the objectives to be sought concerning the development or preservation
7 of sites, area and structures within the district, and formulate a program
8 for public action including the provision of public facilities and the
9 regulation of private development and demolition necessary to realize these
10 objectives.

11 (c) The ordinance establishing districts of historical significance
12 shall set forth standards necessary to preserve the historical character of
13 the area so designated.

14 (d) The ordinances may designate or authorize any committee,
15 commission, department or person to designate structures or sites of special
16 historical significance in accordance with criteria contained in the
17 ordinance, and no designation shall be made except after a public hearing
18 upon notice of the owners of record of the property so designated. The
19 ordinances may require that special permission be obtained for any
20 development respecting the structures or sites.

21 11. Establish age specific community zoning districts in which
22 residency is restricted to a head of a household or spouse who must be of a
23 specific age or older and in which minors are prohibited from living in the
24 home. Age specific community zoning districts shall not be ~~overlaid~~
25 OVERLAI~~D~~ over property without the permission of all owners of property
26 included as part of the district unless all of the property in the district
27 has been developed, advertised and sold or rented under specific age
28 restrictions. The establishment of age specific community zoning districts
29 is subject to all of the public notice requirements and other procedures
30 prescribed by this article.

31 12. Establish procedures, methods and standards for the transfer of
32 development rights within its jurisdiction. Any proposed transfer of

1 development rights from the sending property or to the receiving property
2 shall be subject to the notice and hearing requirements of section 9-462.04
3 and shall be subject to the approval and consent of the property owners of
4 both the sending and receiving property. Prior to any transfer of
5 development rights, a municipality shall adopt an ordinance providing for:

6 (a) The issuance and recordation of the instruments necessary to sever
7 development rights from the sending property and to affix development rights
8 to the receiving property. These instruments shall be executed by the
9 affected property owners and lienholders.

10 (b) The preservation of the character of the sending property and
11 assurance that the prohibitions against the use and development of the
12 sending property shall bind the landowner and every successor in interest to
13 the landowner.

14 (c) The severance of transferable development rights from the sending
15 property and the delayed transfer of development rights to a receiving
16 property.

17 (d) The purchase, sale, exchange or other conveyance of transferable
18 development rights prior to the rights being affixed to a receiving property.

19 (e) A system for monitoring the severance, ownership, assignment and
20 transfer of transferable development rights.

21 (f) The right of a municipality to purchase development rights and to
22 hold them for resale.

23 B. For the purposes prescribed in subsection A of this section the
24 legislative body may divide a municipality, or portion of a municipality,
25 into zones of the number, shape and area it deems best suited to carry out
26 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

27 C. All zoning regulations shall be uniform for each class or kind of
28 building or use of land throughout each zone, but the regulations in one type
29 of zone may differ from those in other types of zones as follows:

30 1. Within individual zones, there may be uses permitted on a
31 conditional basis under which additional requirements must be met, including

1 requiring site plan review and approval by the planning agency. The
2 conditional uses are generally characterized by any of the following:

- 3 (a) Infrequency of use.
4 (b) High degree of traffic generation.
5 (c) Requirement of large land area.

6 2. Within residential zones, the regulations may permit modifications
7 to minimum yard lot area and height requirements.

8 D. To carry out the purposes of this article and articles 6 and 6.2 of
9 this chapter, the legislative body may adopt overlay zoning districts and
10 regulations applicable to particular buildings, structures and land within
11 individual zones. For the purposes of this subsection, "overlay zoning
12 district" means a special zoning district that includes regulations which
13 modify regulations in another zoning district with which the overlay zoning
14 district is combined. Overlay zoning districts and regulations shall be
15 adopted pursuant to section 9-462.04.

16 E. The legislative body may approve a change of zone conditioned upon
17 a schedule for development of the specific use or uses for which rezoning is
18 requested. If at the expiration of this period the property has not been
19 improved for the use for which it was conditionally approved, the legislative
20 body, after notification by certified mail to the owner and applicant who
21 requested the rezoning, shall schedule a public hearing to take
22 administrative action to extend, remove or determine compliance with the
23 schedule for development or take legislative action to cause the property to
24 revert to its former zoning classification.

25 F. All zoning and rezoning ordinances or regulations adopted under
26 this article shall be consistent with and conform to the adopted general plan
27 of the municipality, if any, as adopted under article 6 of this chapter. In
28 the case of uncertainty in construing or applying the conformity of any part
29 of a proposed rezoning ordinance to the adopted general plan of the
30 municipality, the ordinance shall be construed in a manner that will further
31 the implementation of, and not be contrary to, the goals, policies and
32 applicable elements of the general plan. A rezoning ordinance conforms with

1 the land use element of the general plan if it proposes land uses, densities
2 or intensities within the range of identified uses, densities and intensities
3 of the land use element of the general plan.

4 G. No regulation or ordinance under this section may prevent or
5 restrict agricultural composting on farmland that is five or more contiguous
6 acres and that meets the requirements of this subsection. An agricultural
7 composting operation shall notify in writing the legislative body of the city
8 or town and the nearest fire department of the location of the composting
9 operation. If the nearest fire department is located in a different city or
10 town from the agricultural composting operation, the agricultural composting
11 operation shall also notify in writing the fire department of the city or
12 town in which the operation is located. Agricultural composting is subject
13 to the provisions of sections 3-112 and 49-141. Agricultural composting may
14 not be conducted within one thousand three hundred twenty feet of an existing
15 residential use, unless the operations are conducted on farmland or land
16 leased in association with farmland. Any disposal of manure shall comply
17 with section 49-247. For purposes of this subsection:

18 1. "Agricultural composting" means the controlled biological
19 decomposition of organic solid waste under in-vessel anaerobic or aerobic
20 conditions where all or part of the materials are generated on the farmland
21 or will be used on the farmland associated with the agricultural composting
22 operation.

23 2. "Farmland" has the same meaning prescribed in section 3-111 and is
24 subject to regulation under section 49-247.

25 H. A CITY OR TOWN MAY NOT ADOPT A LAND USE REGULATION OR IMPOSE ANY
26 CONDITION FOR ISSUANCE OF A BUILDING OR USE PERMIT OR OTHER APPROVAL THAT
27 VIOLATES SECTION 9-461.14.

28 ~~H.~~ I. For purposes of this section:

29 1. "Development rights" means the maximum development that would be
30 allowed on the sending property under any general or specific plan and local
31 zoning ordinance of a municipality in effect on the date the municipality
32 adopts an ordinance pursuant to subsection A, paragraph 12 of this section

1 respecting the permissible use, area, bulk or height of improvements made to
2 the lot or parcel. Development rights may be calculated and allocated in
3 accordance with factors including dwelling units, area, floor area, floor
4 area ratio, height limitations, traffic generation or any other criteria that
5 will quantify a value for the development rights in a manner that will carry
6 out the objectives of this section.

7 2. "Receiving property" means a lot or parcel within which development
8 rights are increased pursuant to a transfer of development rights. Receiving
9 property shall be appropriate and suitable for development and shall be
10 sufficient to accommodate the transferable development rights of the sending
11 property without substantial adverse environmental, economic or social impact
12 to the receiving property or to neighboring property.

13 3. "Sending property" means a lot or parcel with special
14 characteristics, including farmland, woodland, desert land, mountain land,
15 floodplain, natural habitats, recreation or parkland, including golf course
16 area, or land that has unique aesthetic, architectural or historic value that
17 a municipality desires to protect from future development.

18 4. "Transfer of development rights" means the process by which
19 development rights from a sending property are affixed to one or more
20 receiving properties."

21 Amend title to conform

4/7/08

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